



10-15-03

1733

**EXPRESS MAIL CERTIFICATE**

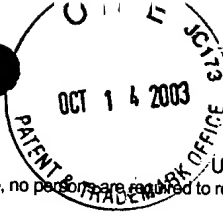
"Express Mail" Label No. : EV 316 331 670 US  
Serial No. : 09/852,313  
Applicant(s) : HARRIS, Larris et al  
Filing Date : May 9, 2001  
Title: : Process for Applying Microcapsules to Textile  
Materials and Products Formed by the Process  
Examiner : Todd J. Kilkenny  
Group Art Unit : 1733  
Type of Document(s) : Express Mail Certificate;  
Transmittal Form;  
Election (4 pgs.); and  
Return Postcard

**RECEIVED**  
**OCT 20 2003**  
**TC 1700**

I hereby certify that the documents identified above are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and are addressed to the Mail Stop Non-Fee Amendment, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450.

Carol McCabe (signature)  
Carol McCabe

*Date Mailed: October 14, 2003*



<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/852,313
		Filing Date	May 9, 2001
		First Named Inventor	Larris Harris et al.
		Art Unit	1733
		Examiner Name	Todd J. Kilkenny
Total Number of Pages in This Submission	4	Attorney Docket Number	41872-249694

**RECEIVED**  
**OCT 20 2003**  
**TC 1700**

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Response  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <b>1. Election</b>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	J. Michael Boggs
Signature	<i>J. Michael Boggs</i>
Date	10/14/03

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name			
Signature		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



EV 316 331 670 US

#6/160E  
10/21/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Larry Harris et al.  
Serial No. : 09/852,313  
Filing Date : May 9, 2001  
Title : Process for Applying Microcapsules to Textile Materials and  
Products Formed by the Process  
Examiner : Todd J. Kilkenny  
Group Art Unit : 1733

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RECEIVED  
OCT 20 2003  
TC 1700

Dear Sir:

ELECTION

This Election is being filed in response to the Official Action mailed September 16, 2003, in the above-identified application.

I. Election of Group of Claims

In the Official Action, the examiner restricts prosecution to one of two (2) groups of claims.

Applicant hereby **elects Group II**, which includes claims 44-67, *with traverse*.

The Official Action states that the final product as claimed does not require the process steps as recited and can be made by another and materially different process such as a process that doesn't require a treatment bath, but rather spray coats the microcapsules onto the textile material, or, alternatively, that the final product can be made by another and materially different process such as a process that doesn't require dispersing the microcapsules with a dispersant, but

rather applies the microcapsules as solid particles directly to the textile without a dispersant.

(Official Action, para. 2.)

Claim 44, and claims 45-51 dependent therefrom, of the present invention claim a textile material having microcapsules applied thereto, the microcapsules applied to the textile material by placing the textile material *in a treatment bath*, contacting the textile material with the microcapsules, *dispersing the microcapsules* around and through the textile material *with a dispersant*, and adhering the dispersed microcapsules to the textile material with a binder. Claim 52, and claims 53-59 dependent therefrom, of the present invention claim a textile material having microcapsules applied thereto, the microcapsules applied to the textile material according to the process of claim 30, including placing the textile material *in a treatment bath*, physically dispersing the microcapsules in the bath to contact the textile material with the microcapsules, *dispersing the microcapsules* around and through the textile material *with a silicone-based dispersant*, and adding a binder to the bath to adhere the dispersed microcapsules to the textile material. Claim 60, and claims 61-67 dependent therefrom, of the present invention claim a textile material having microcapsules applied thereto, the microcapsules applied to the textile material according to the process of claim 37, including placing the textile material *in a treatment bath*, stirring the bath for three minutes to physically disperse the microcapsules and contact the textile material with the microcapsules, *dispersing the microcapsules* around and through the textile material *with a dispersant*, and adding an acrylic binder having a cationic charge to adhere the dispersed microcapsules to the textile material. Accordingly, Applicant respectfully submits that the product as claimed in these claims cannot be made by a process that

is materially different than the processes claimed in claims 30 and 37, which are part of Group I. Thus, a search encompassing claims in each group would not be unduly burdensome. Therefore, Applicant respectfully requests that the restriction requirement be withdrawn.

## II. Election of Species

In the Official Action, the examiner restricts prosecution to a single disclosed species.


Applicant hereby **elects Species A<sub>1</sub>**, wherein the microcapsule contains a moisturizing agent. Applicant respectfully submits that claims 47, 49, 55, 57, 63, and 65 are readable upon the elected species. This species election is made *with traverse*.

As stated in the Official Action, claims 44-46, 52-54, and 60-62 are currently generic. Applicant respectfully submits that these claims are allowable, that each of the species A<sub>1</sub> (moisturizing agent), A<sub>2</sub> (fragrance), and A<sub>3</sub> (vitamin) are subsumed within these generic claims, that a search encompassing claims in each of these species would not be unduly burdensome, and that all of these claims should be prosecuted together. Therefore, Applicant respectfully requests that the restriction requirement related to species be withdrawn.

The Office is respectfully invited to contact J. Michael Boggs at (336) 747-7536, to discuss any matter relating to this application.

Respectfully submitted,

Date: 10/14/03

  
\_\_\_\_\_  
J. Michael Boggs  
Reg. No. 46,563

KILPATRICK STOCKTON LLP  
1001 West Fourth Street  
Winston-Salem, North Carolina 27101-2400  
(336) 747-7536 (Phone)  
(336) 734-2632 (Facsimile)

41872-249694  
WINLIB01:1036046.1